

Philadelphia. In Congress, December 6, 1775

IN CONGRESS, DECEMBER 6, 1775.

[We, the Delegates of the Thirteen United] Colonies in North America, have taken into our most serious consideration a Proclamation issued from the Court at St. James's, on the Twenty-third day of August last. The name of his Majesty is used to give it a sanction and influence; and, on that account, it becomes a matter of importance to wipe off, in the name of these United Colonies, the aspersions, which it is calculated to throw upon our cause; and to prevent, as far as possible, the undeserved punishments, which it is designed to prepare for our friends.

We are accused of “forgetting the allegiance which we owe to the power that has protected and sustained us.” Why all this ambiguity and obscurity in what ought to be so plain and obvious, as that he who runs may read it? What allegiance is it that we forget? Allegiance to Parliament? We never owed--never owned it. Allegiance to our King; Our words have ever avowed it--our conduct has ever been consistent with it. We condemn, and, with arms in our hands--a resource which Freemen will never part with--we oppose the claim and exercise our unconstitutional powers, to which neither the Crown or Parliament were ever entitled. By the British Constitution, our best inheritance, rights, as well as duties, descent upon us: We cannot violate the latter by defending the former: We should act in diametrical opposition to both, if we permitted the claims of the British Parliament to be established, and the measures pursued in consequence of those claims to be carried into execution among us. Our sagacious ancestors provided bounds against the inundation of tyranny and lawless power on one side, as well as against that of faction and licentiousness on the other. On which has the breach been made? Is it objected against us by the most inveterate and the most candid of our enemies, that we have opposed any of the just prerogatives of the Crown, or any legal exertion of those prerogatives? Why, then, are we accused of forgetting our allegiance?--We have performed our duty: We have resisted in

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those cases, in which the right to resist is stipulated as expressly, on our parts, as the right to govern is, in other cases, stipulated on the part of the Crown. The breach of allegiance is removed from our resistance as far as tyranny is removed from legal government.

It is alleged that “we have proceeded to an open and avowed rebellion.” In what [does this rebellion] consist? It is thus described --- “Arraying ourselves in hostile manner to withstand the execution of the Law, and traitorously preparing, ordering and levying war against the King.” We know of no laws binding upon us, but such as have been transmitted to us by our ancestors, and such as have been consented to by ourselves or our representatives elected for that purpose. What laws, stamped with these characters, have we withstood? We have indeed defended them; and we will risque everything, do everything and suffer everything in their defense. To support our laws, and our liberties established by our laws, we have prepared, ordered, and levied war: But is this traitorously, or against the King? We view him as the constitution represents him: That tells us he can do no wrong. The cruel and illegal attacks, which we oppose, have no foundation in the royal authority. We will not, on our part, lose the distinction between the King and his Ministers: Happy it would have been for some former Princes, had it been always preserved on the part of the Crown!

Besides all this we observe, on this part of the proclamation, that “rebellion” is a term undefined and unknown in the law. It might have been expected, that a proclamation, which by the constitution, has no other operation than merely that of enforcing what is already law, would have had a known legal basis to have rested upon. A correspondence between the inhabitants of Great-Britain and their brethren in America, produced, in better times, much satisfaction to individuals, and much advantage to the public. By what criterion shall one, who is unwilling to break off this correspondence, and is, at the same time, anxious not to expose himself to the dreadful consequences threatened in this proclamation, --by what criterion shall he regulate his conduct? He is admonished not to carry on correspondence with the persons now in rebellion in the colonies. How shall he ascertain who are in rebellion, and who are not? He consults the law to learn

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the nature of the supposed crime: The law is silent upon the subject. This, in a country where it has been often said, and formerly with justice, that the government is by law and not by men, might render him perfectly easy. But proclamations have been sometimes dangerous engines in the hands of those in power. Information is commanded to be given to one of the Secretaries of State, of all persons “who shall be found carrying on correspondence with the persons in rebellion, in order to bring to condign punishment the authors, perpetrators, or abettors of such dangerous designs.” Let us suppose, for a moment, that some persons in the colonies are in rebellion, and that those, who carry on correspondence with them, might learn, by some rule, which Britons are bound to know, how to discriminate them: Does it follow that all correspondence with them deserves to be punished? It might have been intended to apprise them of their danger, and to reclaim them from their crimes. By what law does a correspondence with a criminal transfer or communicate his guilt? We know that those who aid and adhere to the King's enemies: and those, who correspond with them in order to enable them to carry their designs into effect, are criminal in the eye of the law. But the law goes no farther. Can proclamations, according to the principles of reason and justice and the constitution go farther than the law?

But, perhaps, the principle of reason and justice and the constitution will not prevail: Experience suggests to us the doubt: If they should not, we must resort to arguments drawn from a very different source. We, therefore, in the name of the people of the United Colonies, and by authority, according to the purest maxims of representations derived from them, declare, that whatever punishment shall be inflicted upon any persons in the power of our enemies for favouring, aiding or abetting the cause of American liberty shall be retaliated in the same kind and the same degree upon those, in our power, who have favoured, aided or abetted, or shall favour, aid or abet the system of ministerial oppression. The essential difference between our cause and that of our enemies might justify a severer punishment: The law of retaliation will unquestionably warrant one equally severe.

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We mean not, however, by this declaration, to occasion or to multiply punishments: Our sole view is to prevent them. In this unhappy and unnatural controversy, in which Britons fight against Britons and the descendants of Britons, let the calamities immediately incident to a civil war suffice. We hope additions will not, from wantonness be made to them on one side: We shall regret the necessity, if laid under the necessity, of making them on the other.

*Extract from the Minutes, **CHARLES THOMSON**, Sec.*